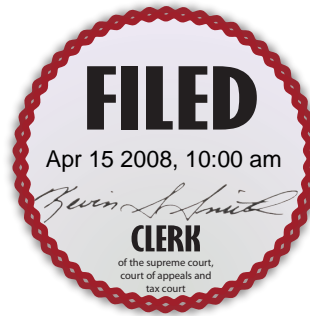


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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JOHN WAYNE MILLER,  
  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
  
Appellee-Plaintiff.

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No. 46A04-0612-CR-696

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APPEAL FROM THE LAPORTE CIRCUIT COURT  
The Honorable Robert W. Gilmore, Jr., Judge  
Cause No. 46C01-0406-MR-288

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**April 15, 2008**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**RILEY, Judge**

## STATEMENT OF THE CASE

Appellant-Defendant, John Wayne Miller (Miller), appeals his conviction for voluntary manslaughter, as a Class A felony, Ind. Code § 35-42-1-3.

We affirm.

## ISSUES

Miller presents two issues for our review, which we restate as:

- (1) Whether the trial court erred when it ordered Miller to be placed in shackles during the trial; and
- (2) Whether the trial court abused its discretion when it admitted Miller's videotaped confession.

## FACTS AND PROCEDURAL

On the evening of June 21, 2004, witnesses saw Miller running on Jefferson Avenue in LaPorte, Indiana. He was wearing a pink shirt that was covered in blood and was carrying a garbage bag. That same evening, Roscoe Cook (Cook) stopped at his grandmother's house at 311 Jefferson Avenue to see if his friend's sister was there. His grandmother asked him to check on her neighbor, Alan Spaeth (Spaeth), who lived in the other side of her duplex house. Cook found Spaeth's body seated in a chair, seriously beaten about the head.

LaPorte City Police Department Detective Jeffrey Wright was called to the scene, and he found Spaeth still seated in the chair with blood spatters on the wall, ceiling, and on various documents. A pathologist examined Spaeth's body and found multiple blunt force injuries to the head and face. Additionally, there were at least five blows to the trunk region

of Spaeth's body. The pathologist determined that the injuries were caused by a blunt force object which could have been a flashlight.

Still that same evening, between 10:00 and 10:30 p.m., an officer found Miller walking four blocks from the crime scene. Miller agreed to go to the police station, where he asked to speak with Chief Detective Lynn Cains (Detective Cains), of the LaPorte City Police Department, an officer that he had previously dealt with. Miller was presented with a written waiver of rights form, which Detective Cains read to Miller. Miller initialed each separate waiver clause, and signed the form waiving his rights at 10:57 p.m.

Just over one hour later, officers began interviewing Miller. Ten to fifteen minutes of the interview was recorded on videotape. Miller stated that sometime earlier that day he had consumed a little beer and smoked some marijuana. He indicated he was not drunk though, and Detective Cains later testified that he did not appear intoxicated. Miller explained that Spaeth had asked him to take money for sex and had gotten in his way when he tried to leave. Miller then beat Spaeth with a flashlight. Miller wiped blood off his shoes and put the cloth in the trash. He put the flashlight in a dumpster, took cigarettes, some change, and Spaeth's roommate's car. He denied knowing Spaeth was dead when he left, and explained he thought Spaeth had passed out. He stated that the beating was not planned, and that he should have used his fists instead of the flashlight. Miller's videotaped statement ended at 12:23 a.m.

On June 23, 2004, the State filed an Information charging Miller with murder, a felony, I.C. § 35-42-1-1(1). On June 25, 2004, Miller told a jailer, "I guess I must have hit that dude too hard or something and I know I'm going to spend the rest of my life in

Michigan City Prison.” (Transcript p. 492). He also stated, “I guess it’s alright to kill as long as you don’t get caught.” (Tr. p. 500). He subsequently got a tattoo on his leg that said, “Born to Kill. Victim number one, Alan Spaeth.” (Tr. p. 370). On July 29, 2005, the trial court ordered Miller sent to the Indiana Department of Correction because of his alleged threat to kill jail staff and his destruction of jail property.

On May 8 through May 12, 2006, a jury trial was held. Initially, the trial court ordered, over Miller’s objection, that he be placed in leg shackles during the trial. The trial court admonished the prospective jurors in *voir dire* not to draw any inference from Miller wearing leg shackles because it was a standard security procedure. On the second day of trial, during a recess, the judge observed Miller yelling at witnesses in the hallway, calling them “mother fucking liars.” (Tr. p. 162). Two deputies restrained Miller and took him to the ground. The trial court interpreted Miller’s actions and words as threats to the witnesses and determined it was necessary for Miller to be fully restrained for the rest of the trial, adding handcuffs to the already present leg shackles over the objection by Miller’s counsel. The trial court offered further admonishment to the jury, but Miller’s counsel thought it would be better not to draw additional attention to the fact that handcuffs had been added.

During trial, Miller’s videotaped statement was entered as evidence over Miller’s objection. At the close of evidence, the jury found Miller guilty of voluntary manslaughter, as a Class A felony, I.C. § 35-42-1-3. The trial court sentenced Miller to fifty years in the Department of Correction.

Miller now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

### *I. Restraining Miller Before the Jury*

Miller contends that the trial court abused its discretion when it ordered him to be restrained in leg shackles, and then in handcuffs as well. As a general proposition, a defendant has the right to appear before a jury without physical restraints, unless such restraints are necessary to prevent the defendant's escape, to protect those present in the courtroom, or to maintain order during trial. *Overstreet v. State*, 877 N.E.2d 144, 160 (Ind. 2007), *reh'g denied*. The right arises from the basic principle of American jurisprudence that a person accused of a crime is presumed innocent until proven guilty beyond a reasonable doubt. *Id.* To further this presumption, courts must guard against practices that unnecessarily mark the defendant as a dangerous character or suggest that his guilt is a foregone conclusion. *Id.*

“The facts and reasoning supporting the trial judge’s determination that restraints are necessary must be placed on the record.” *Wrinkles v. State*, 749 N.E.2d 1179, 1193 (Ind. 2001) (citing *Coates v. State*, 487 N.E.2d 167, 169 (Ind. Ct. App. 1985), *overruled on other grounds*). A trial court may consider a defendant’s behavior outside the courtroom as well as his in-court behavior in deciding whether to order restraints. *Forte v. State*, 759 N.E.2d 206, 208 (Ind. 2001). The nature of the offense for which the defendant is being tried is relevant to the trial court’s decision whether, to what extent, and by what means to restrain the defendant. *Evans v. State*, 571 N.E.2d 1231, 1238 (Ind. 1991).

Here, the trial court did not articulate the reasons which it relied upon to determine that Miller should wear leg shackles during the trial. Similarly, in *Coates*, we noted that the trial court had not articulated specific facts upon which it relied to determine that restraints were necessary, and we chose to independently review the record to determine whether the trial court's order was supported by such facts. *Coates*, 487 N.E.2d 169-170. Likewise, we choose to review the record, and upon such review, we find facts which support the trial court's order requiring Miller to wear leg shackles. First, the gruesome nature of the crime for which Miller was being tried gave some support to the trial court's determination to have Miller placed in leg shackles. Further, the trial court had previously ordered Miller to be sent to the Department of Correction because of his threats to jail staff and destruction of property while in custody. Additionally, Miller was reviewed to determine his competency to stand trial in 2004. On September 30, 2004, a forensic psychological evaluation was filed with the trial court, wherein the psychologist concluded that, "It is [] likely that Mr. Miller will act out in court when confronted with information he will not like to hear. I am concerned for his attorney's safety and the court personnel's safety while Mr. Miller is in court." (Appellant's App. p. 310). We conclude these facts provided reason for the trial court to order Miller's restraint. The trial court admonished the jury by explaining that such restraints were standard procedure from which they should draw no inference. Therefore, we conclude that the trial court did not err when ordering Miller to wear leg shackles during the trial.

The trial court articulated its reasons for adding the additional restraint of handcuffs. The judge saw first-hand Miller's outburst during a recess of the court. Based on its

observations of Miller's behavior, the trial court determined that Miller had threatened witnesses and acted in a manner that endangered the safety of security personnel. The trial court offered to admonish the jury regarding the placement of handcuffs upon Miller, but defense counsel refused its offer choosing not to draw any more attention to the restraints. We conclude that the trial court did not abuse its discretion when ordering Miller to be placed in handcuffs.

## II. *Intelligence of Waiver of Rights*

Miller argues that his videotaped confession was improperly admitted as evidence during his trial. Specifically, Miller contends that due to his lack of intelligence, and the subsequent finding that he was temporarily incompetent to stand trial, he was unable to understand the consequences of his confession. Further, Miller contends that he could not voluntarily confess because he had smoked some marijuana and drank some beer earlier that day.

First, we acknowledge that a trial court is afforded broad discretion when ruling on the admissibility of evidence. *Goodner v. State*, 685 N.E.2d 1058, 1060 (Ind. 1997). We review a trial court's decision to admit or exclude evidence for an abuse of discretion. *Gauvin v. State*, 878 N.E.2d 515, 519 (Ind. Ct. App. 2007), *trans. denied*. An abuse of discretion occurs if a trial court's decision is clearly against the logic and effect of the facts and circumstances before the court. *Id.* Moreover, we will not reverse the trial court's decision to admit evidence if that decision is sustainable on any ground. *Id.*

When a defendant challenges the admissibility of his confession, the State must prove the voluntariness of that confession beyond a reasonable doubt. *Luckhart v. State*, 736 N.E.2d 227, 230 (Ind. 2000).<sup>1</sup> The voluntariness of a confession is determined from the “totality of the circumstances.” *Id.* A confession is voluntary if, in light of the totality of the circumstances, the confession is the product of rational intellect and not the result of physical abuse, psychological intimidation, or deceptive interrogation tactics that have overcome the defendant’s free will. *Id.* The critical inquiry is whether the defendant’s statements were induced by violence, threats, promises, or other improper influence. *Id.*

Our review of the evidence reveals no coercion, abuse, or intimidations by the LaPorte City Police Department. Rather, the evidence shows that Miller asked to speak with Detective Cains. He was read aloud his rights, acknowledged them in writing, and nevertheless decided to explain what had happened without coercive prodding from the LaPorte City Police.

However, Miller argues not that he was coerced to confess, but that the evidence shows he could not understand the consequences of his waiver of rights. Low mental capacity alone is not a cause for excluding a confession. *Wessling v. State*, 798 N.E.2d 929,

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<sup>1</sup> Both Miller and the State articulate in their briefs that the State must prove the voluntariness of Miller’s confession by a preponderance of the evidence. However, our supreme court explained in *Luckhart* that the federal standard of proof for this showing is by a preponderance of the evidence, but Indiana law requires the State to prove the voluntariness of confessions beyond a reasonable doubt. *Luckhart*, 736 N.E.2d at 230 n. 1. Miller has presented no allegation that the trial court applied the incorrect standard of proof when evaluating his claim that his confession was involuntary.



936 (Ind. Ct. App. 2003). Rather, it is one factor in the totality of the circumstances to consider in determining whether the confession was freely and knowingly given. *Id.* Miller points to his psychological evaluation, where the psychologist determined that he had scored a zero for understanding, zero for reasoning, and a zero for appreciation of his legal situation and circumstances. This would be powerful evidence showing Miller's inability to understand his waiver of rights. But, the psychologist qualified these scores by stating "[Miller] received zeros on the items due to his lack of cooperation during the first and second interviews." (Appellant's App. p. 310). The psychologist concluded that Miller had "contrived and exaggerated" symptoms of mental defect during his initial interview. (Appellant's App. p. 308). Miller's videotaped statement itself demonstrates his ability to process information at the time he waived his rights. In Miller's statement, he was able to recall and explain the circumstances which had occurred, synthesizing the information so that he explained why he was at Spaeth's apartment, what had likely motivated Spaeth to make sexual advances towards him, and why he had rejected Spaeth. He then explained in detail how Spaeth stepped in his way and how he then proceeded to beat Spaeth to death with the flashlight. We conclude that Miller's attempt at acting to skew his competency evaluation, and his mental capacity as evidenced in his videotaped statement demonstrates his ability to understand the consequences of his legal situation.

Miller also argues that he was intoxicated at the time of his confession and this intoxication makes his confession involuntary. Intoxication may be a factor in determining the voluntariness of a statement. *Scalissis v. State*, 759 N.E.2d 618, 621 (Ind. 2001). "A

confession may be inadmissible if the defendant was so intoxicated or impaired as to be unconscious of what he was doing or in a state of mania.” *Owens v. State*, 754 N.E.2d 927, 929 (Ind. 2001). Miller told police officers that he had smoked marijuana and drank beer earlier the in day, but also stated he was not drunk when he gave his confession. Miller concedes in his Appellant’s Brief that “the video statement itself shows Miller did not slur words, he gave his version of what happened in a logical manner, and he responded appropriately to questions.” (Appellant’s Br. p. 21). Detective Cains testified to the trial court that she did not believe Miller was intoxicated or under the influence of drugs when he waived his rights. In reviewing the record, we find no evidence that Miller was intoxicated at the time when he gave his statement, let alone, evidence that he was so intoxicated that he was unconscious when he gave his confession.

For all of these reasons, we conclude that the trial court did not abuse its discretion when it determined the State had proved beyond a reasonable doubt Miller had voluntarily given his confession. Therefore, the trial court did not abuse its discretion when it admitted Miller’s videotaped confession as evidence.

### CONCLUSION

For the foregoing reasons, we conclude that the trial court did not err when ordering Miller to be restrained, and did not abuse its discretion when it admitted his videotaped confession as evidence.

Affirmed.

KIRSCH, J., and MAY, J., concur.